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DATE FILED: 3/12/18

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

*Redacted*

3 UNITED STATES OF AMERICA,

4 v.

16 CR 376 (RMB)

5 ABDULRAHMAN EL BAHNASAWY,

6 Defendant.

7 -----X

8 New York, N.Y.  
9 October 6, 2016  
9:05 a.m.

10 Before:

11 HON. RICHARD M. BERMAN

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the  
16 Southern District of New York

17 NEGAR TEKEEI

18 GEORGE TURNER

Assistant United States Attorney

19 FEDERAL DEFENDERS OF NEW YORK

Attorneys for Defendant

20 SABRINA SHROFF

21 CLAY KAMINSKY

*Clerk to Docket + file.*

22 SO ORDERED:

23 Date: 3/10/18

*Richard M. Berman*  
Richard M. Berman, U.S.D.J.

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1 THE COURT: So, this conference is being held at the  
2 request of the defense and the government. So, you have the  
3 floor.

4 MS. TEKEEI: Your Honor, if we may, the Court is  
5 correct. The conference is being held at the request of  
6 defense counsel. We understand there are matters that defense  
7 counsel wishes to raise with the Court.

8 We thought it would also make sense for us to ask the  
9 government to provide you with an update since the last  
10 conference which was on September 19.

11 THE COURT: Yes.

12 MS. TEKEEI: At that conference we informed the Court  
13 that

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1           We note that as defense counsel and the defendant are  
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8       situation. Since the last conference,

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10                   the government agreed that it would be  
11       appropriate at this time for the defendant to be housed in  
12       general population subject to certain restrictions. And as of  
13       the middle of last week the defendant is, in fact, being housed  
14       in general population at MCC with certain restrictions as to  
15       his access to e-mail and phone.

16           And your Honor, since the last conference potential  
17       new counsel which at the last conference was identified as  
18       Barry Coburn and Dennis Edney have not contacted the U.S.  
19       Attorney's Office regarding their intent or an intent to enter  
20       the case or otherwise.

21           We understand that Dennis Edney and another lawyer,  
22       Jason Wright, have arranged to meet with defendant at MCC  
23       today.

24           So, again, we're here today at defense counsel's  
25       request so that the Court is aware. To the extent defense

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1 counsel and the defendant would like to discuss matters related  
2 to his representation, we think it would be appropriate for the  
3 Court to conduct that portion of the proceeding ex parte  
4 because, as we have stated at prior conferences, the government  
5 takes no position whatsoever on matters related to the  
6 defendant's representation.

7 THE COURT: So, let me understand.

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10 MS. TEKEEI: Yes, your Honor.

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12 THE COURT: And you're saying

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15 MS. TEKEEI: That is correct.

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21 THE COURT: And he's been moved to general population?  
22 Get that, right.

23 MS. TEKEEI: That's correct.

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25 THE COURT: Now, so the two counsel that were  
discussed at our last session as potential defense counsel, one

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1 of them has dropped out and the other is -- has arranged a  
2 meeting with Mr. El Bahnasawy today along with attorney -- I  
3 guess it's attorney right; is that correct?

4 MS. TEKEEI: Your Honor I'm not sure that dropped out  
5 is what happened. No attorneys have contacted the U.S.  
6 Attorney's Office with respect to this case, neither Barry  
7 Coburn, Dennis Edney, nor Jason Wright. We understand from  
8 counsel at MCC, Adam Johnson, that Dennis Edney and Jason  
9 Wright have scheduled to meet with the defendant today at MCC.

10 THE COURT: And, Ms. Shroff, such a meeting is being  
11 conducted today?

12 MS. SHROFF: Your Honor, I have no knowledge but I  
13 hope so, so that matters can move forward.

14 This appearance was at our request. We discussed it  
15 with the government. We tried to schedule it yesterday so that  
16 we would not impede Mr. Edney and Mr. Wright's visit. The  
17 government and the United States marshal service have very  
18 graciously agreed to expedite Mr. El Bahnasawy's return to the  
19 MCC so that the visit can commence. This Court accommodated us  
20 by scheduling the appearance for 9 instead of the original  
21 10:30. So, yes, I hope that answers at least all of the  
22 Court's questions.

23 THE COURT: The only other one is do you -- does  
24 counsel, current counsel sit in on such a meeting or no?

25 MS. SHROFF: No.

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1 THE COURT: Okay. All right. I'm happy to hear from  
2 Ms. Shroff in the absence of the government if the government  
3 has nothing further that it wished to discuss at this moment.

4 MS. TEKEEI: No. Thank you, your Honor.

5 THE COURT: So we'll call you back at the end of that  
6 conversation.

7 MS. TEKEEI: Thank you.

8 THE COURT: You can use the jury room if you'd like.

9 MR. TURNER: Thank you, your Honor.

10 (Continued on next page)

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1 (United States attorneys present)

2 THE COURT: What we've concluded is that we should  
3 have a follow-up meeting I think sooner rather than later. We  
4 have tentatively scheduled it for next week on the 11<sup>th</sup>,  
5 which is Tuesday, at 9 a.m. Ms. Shroff may have a need to  
6 change that date in which case it would likely be the 13<sup>th</sup>.  
7 It would be good if we could do it, as they say, the sooner the  
8 better. So hold on a second.

9 Monday is a holiday. So Tuesday at 11 -- I mean  
10 Tuesday at 9 is as soon as we can get it done. So I don't  
11 anticipate it will be a long session but we'll see. All right.  
12 Can you make that?

13 MS. TEKEEI: Yes, your Honor.

14 THE COURT: So we've already excluded time  
15 incidentally to a later date so I don't know that we need to do  
16 that again at this time. Do your notes reflect that as well,  
17 we excluded time until October 17?

18 MS. TEKEEI: That's correct, your Honor.

19 THE COURT: So certainly October 11 is already  
20 covered. All right. So let's see how it goes.

21 MS. TEKEEI: And we just note that the case is still  
22 currently sealed on consent  
23 and that sealing order that the Court signed on September 19  
24 still remains in effect.

25 Also, that today's --

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1 THE COURT: We should make sure that Ms. Shroff is  
2 hearing what you're saying.

3 MS. TEKEEI: Certainly.

4 THE COURT: Ms. Shroff, did you --

5 MS. SHROFF: I agree to the exclusion of time.

6 THE COURT: And also they are talking about sealing.

7 MS. SHROFF: And the continued sealing, your Honor, is  
8 fine except for that one proviso that you told Mr. El Bahnasawy  
9 earlier.

10 We'll just forget about that.

11 THE COURT: No. I don't remember. It's not that I'm  
12 not agreeable to it. Is this something that we discussed in  
13 the ex parte discussion?

14 MS. SHROFF: Yes, your Honor. It's fine.

15 May I just approach quickly?

16 THE COURT: Yes, sure.

17 (Continued on next page)

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1 MS. TEKEEI: Your Honor, just one last thing. We note  
2 that the courtroom has been closed today on consent by the  
3 defendant, defense counsel, and obviously the government.

4 THE COURT: So, just to confirm it's my understanding  
5 that both the government and Ms. Shroff as defense believes  
6 that

7  
8 I understand that to be the case as well. Just so you know.

9 MS. TEKEEI: That's great. Thank you. That is  
10 correct.

11 One last thing, your Honor. To the extent, it sounds  
12 like it has not been, but to the extent that there is a  
13 modification to the current sealing order we ask to be made  
14 aware of that modification. Perhaps not the rationale for it.  
15 If it involves defense, you know, potential representation.

16 THE COURT: I think it goes to the matter I just  
17 mentioned and I think I suggested that it's something that  
18 Ms. Shroff and/or Mr. El Bahnasawy may want to bring to the  
19 attention of Mr. El Bahnasawy's parents.

20 MS. TEKEEI: Okay. Has there been a modification to  
21 the sealing order, your Honor?

22 MS. SHROFF: No.

23 THE COURT: I don't believe so.

24 MS. SHROFF: As counsel for Mr. El Bahnasawy, I want  
25 to reassure the government there is no modification to the

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1 protective order, the sealing order, or any other fact-based  
2 order that's in existence on the case.

3 MS. TEKEEI: That's great. Thank you, your Honor.

4 THE COURT: So we'll see everybody on October 11 at  
5 9 a.m. All right. Thanks.

6 (Adjourned)

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